

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

Aaron Horwarth,

Civil File No.17-875

Plaintiff,

vs.

**NOTICE OF REMOVAL**

Wells Fargo Bank, N.A.,

Defendant.

**TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF MINNESOTA, PLAINTIFF, AND PLAINTIFF’S COUNSEL  
OF RECORD:**

**PLEASE TAKE NOTICE** that Defendant Wells Fargo Bank, N.A. (“Wells Fargo”), by filing this Notice of Removal under 28 U.S.C. § 1446(a), hereby removes the action entitled *Aaron Horwarth v. Wells Fargo Bank, N.A.* from District Court of Ramsey County, Second Judicial District, State of Minnesota, to the United States District Court for the District of Minnesota. In support of this Notice of Removal, Wells Fargo states the following:

1. On March 2, 2017, Plaintiff served a civil action in Ramsey County, Second Judicial District, State of Minnesota, captioned *Aaron Horwarth v. Wells Fargo Bank, N.A.* Defendant Wells Fargo received a copy of the Summons and Complaint. Plaintiff did not file his Complaint with the court clerk.

2. Pursuant to 28 U.S.C. § 1446(a), a copy of the Complaint served in State Court is attached hereto as Exhibit A.

3. Plaintiff Aaron Horwath is the sole plaintiff bringing this Complaint against Defendant Wells Fargo as the sole defendant.

4. Removal to this Court is timely and within the 30-day deadline. *See* 28 U.S.C. § 1446(b); *see also Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 347-48 (1999) (30-day deadline for removal “is triggered by simultaneous service of the summons and complaint, or receipt of the complaint, ‘through service or otherwise,’ after and apart from service of the summons, but not by mere receipt of the complaint unattended by any formal service.”).

5. Venue of this removal is proper under 28 U.S.C. § 1441(a) because the Minnesota state court in which this action was brought is located within the District of Minnesota.

6. Defendant Wells Fargo will promptly serve Plaintiff Aaron Horwath with a copy of this Notice of Removal and file a Notice of Filing of Notice of Removal with the Second Judicial District Court for Ramsey County, Minnesota, as required by 28 U.S.C. § 1446(d).

### **Federal Question Jurisdiction**

7. Defendant Wells Fargo is filing its Notice of Removal under 28 U.S.C. § 1441(a), which allows a defendant to remove “any civil action brought in a State court of which the district courts of the United States have original jurisdiction....” Pursuant to 28 U.S.C. § 1331, United States District Courts have original jurisdiction over all civil actions arising under the laws of the United States.

8. In his Complaint, Plaintiff asserts one claim for violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* (“TCPA”). The claim therefore presents a federal question within the meaning of 28 U.S.C. § 1331, as it arises under the laws of the United States. *See Mims v. Arrow Financial Services, LLC*, 565 U.S. 368, 386-387 (2012) (holding federal courts have original jurisdiction to hear TCPA claims pursuant to 28 U.S.C. § 1331).

9. Defendant Wells Fargo reserves all of its defenses, including, without limitation, the right to amend or supplement this Notice of Removal.

WHEREFORE, Defendant Wells Fargo requests that this matter be removed from the Second Judicial District of the State of Minnesota, Ramsey County, to the United States District Court, District of Minnesota, and that all further proceedings be held before this Court.

Dated: March 23, 2017

DORSEY & WHITNEY LLP

By s/ Peter R. Mayer  
Peter R. Mayer (#0397576)  
mayer.peter@dorsey.com  
Suite 1500, 50 South Sixth Street  
Minneapolis, MN 55402-1498  
Telephone: 612) 340-2600  
Facsimile: (612) 340-2868

-AND-

Eric Troutman (CA #229263) PHV  
pending

troutman.eric@dorsey.com

Nicole Su (CA #298973) PHV pending

su.nicole@dorsey.com

DORSEY & WHITNEY LLP

600 Anton Boulevard, Suite 2000

Costa Mesa, California 92626

Attorneys for Defendant Wells Fargo Bank,  
N.A.